

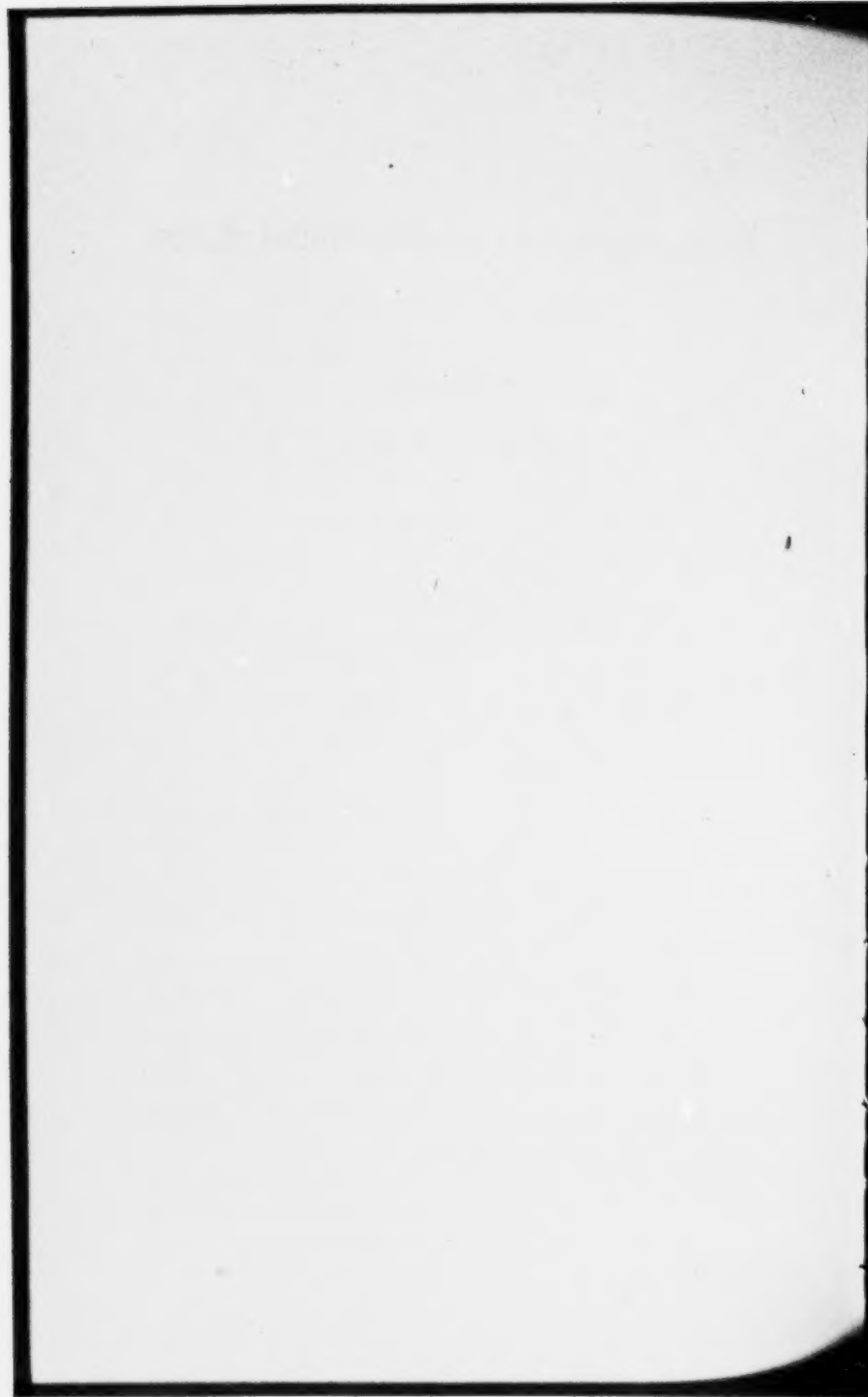
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(1)



In the Supreme Court of the United States

OCTOBER TERM, 1946

No. 1361

RALPH B. MELLOR, PETITIONER

v.

UNITED STATES OF AMERICA

No. 1362

CHARLES J. FORD, PETITIONER

v.

UNITED STATES OF AMERICA

*ON PETITIONS FOR WRITS OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS FOR THE
EIGHTH CIRCUIT*

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

On March 21, 1945, petitioners were jointly indicted (R. 3-4) in the United States District Court for the District of Nebraska in one count charging a violation of Section 2 of the Mann Act, 18 U. S. C. 398.¹ The indictment alleged

¹ This provision reads as follows:

"Any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in

that on or about August 10, 1944, petitioners wilfully transported two girls from petitioner Mellor's ranch home in Nebraska to Moran, Wyoming, for the purpose of prostitution and debauchery and for other immoral purposes, and with intent to compel the girls to give themselves up to debauchery and to engage in other immoral practices. After various pre-trial motions were disposed of, the case went to trial, the jury returned a verdict of guilty (R. 67-68), and each petitioner was sentenced to imprisonment for a term of three years (R. 92-94). Their motions for a new trial were denied (R. 70-86), and they

any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court."

appealed to the Circuit Court of Appeals for the Eighth Circuit. In an exhaustive opinion (R. 242-256), that court affirmed the judgments of the district courts.

The evidence in support of the verdict of the jury may be briefly summarized as follows:

Petitioner Mellor operates a ranch in Nebraska (see R. 157); he is 42 years old (R. 205). Petitioner Ford worked for Mellor on the ranch (R. 157), and is 38 years old (R. 170). The girls involved—Lois Jean Milacek and Doreen Hasenpflug—were 14 and 16 years old, respectively, at the time of the events in question (R. 106, 120). On August 8, 1944, the girls were walking along the highway en route to a nearby town in Nebraska when petitioners drove up and invited them into their automobile (R. 106-107, 120). Petitioners stopped at a nearby town and bought the girls whiskey and then took them to the Mellor ranch (R. 107, 121). Later in the evening, petitioners drove the girls to a nearby dance hall, and then picked up Lois when the dance was over (R. 107, 122).² They returned to the ranch, where Lois slept that night. The next morning, petitioner Mellor and Lois drove in Mellor's automobile to Lynch, Nebraska, and picked up Doreen, and later petitioner Ford joined them. Mellor gave Doreen money, and the girls bought clothes. (R. 107, 122.)

² Doreen apparently returned to her home after the dance (R. 107, 122).

Petitioners had told the girls that they were going on a fishing vacation in Wyoming and that if the girls would accompany them "we could have anything we wanted or do anything we wanted after we got there" (R. 107, 121-122). The girls agreed to accompany petitioners, and on the third day after the meeting on the highway the party left the ranch for the vacation in Wyoming. En route, the girls fell asleep in the car, but when petitioners reached the boundary line between Nebraska and Wyoming, they awakened the girls and instructed them to walk across the state line because it was illegal to transport them over the line. The girls walked the few feet necessary to cross the boundary, and then returned to the car. (R. 108, 123.) In the course of the trip, petitioners gave the girls money (R. 108, 123). Petitioners rented a cabin at the Signal Mountain Lodge in Wyoming, and they told the girls that they had registered them as their wives (R. 108-109, 124). The cabin had two bedrooms, and each couple occupied a room (R. 109, 124). Lois testified that petitioner Ford "forced me to have intercourse with him" (R. 110). Doreen testified that petitioner Mellor had sexual intercourse with her at the cabin (R. 124). The girls left petitioners after ten days of this and asked them to furnish them with money to return to their homes, as they had promised, but petitioners refused (R. 110, 124). Both girls eventually returned home after first going to

California, where one of them had a sister (R. 110, 124).

The theory of the defense was that petitioners were going on a fishing trip to Wyoming, and the girls wanted to go to California, so petitioners gave them a ride as far as Wyoming. The girls stayed at the cabin one night, both sleeping together in one bedroom, and on the following day petitioners sent them on their way. Petitioners testified that they did not at any time do anything more than furnish the girls an unexciting automobile ride from Nebraska to Wyoming. (See R. 160-166, 188-194, 196-202.)

Petitioners' 91 pages of petition and supporting brief and 12 specifications of error present the same contentions which they unsuccessfully urged in the district court on motion for a new trial and on the appeal to the circuit court of appeals. Judge Delehant, in the district court, wrote a lengthy opinion (R. 70-86) in which he discussed each of petitioners' contentions *seriatim* and demonstrated why they are without merit. On the appeal, Judge Woodrough, speaking for the court, wrote an equally exhaustive opinion (R. 242-256), again discussing and rejecting petitioners' numerous arguments. Since both courts below have carefully demonstrated in considered opinions the lack of merit in petitioners' contentions, and since the opinions reflect the Government's answers to those contentions, we believe there is little to be gained in reiterating here

what both courts already have convincingly stated. Accordingly, we respectfully submit, on the basis of the opinions below, that petitioners' contentions are without merit and that their petitions should accordingly be denied.

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MAY 1947.